UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/557,081	04/21/2000	Henry B. Strub	IR-022-C1	6596

21912 7590 08/25/2006

VAN PELT, YI & JAMES LLP
10050 N. FOOTHILL BLVD #200
CUPERTINO, CA 95014

EXAMINER	
DUNN, MISHAWN N	

ART UNIT	PAPER NUMBER
2621	

DATE MAILED: 08/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/557,081	STRUB ET AL.	
	Examiner	Art Unit	
	Mishawn N. Dunn	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 July 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5,7,8,10-14,17-26,29-31,35-38,41-49 and 51-53* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5,7,8,10-14,17-26,29-31,35-38,41-49 and 51-53* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *21 July 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. The Examiner withdrawals the objection to the drawings based on Applicant's addition of Figure 3.

2. The Examiner withdrawals the objection to the abstract based on Applicant's amendment.

3. Applicant's arguments with respect to claims 1-5, 7, 8, 10-14, 17-26, 29-31, 35-38, 41- 49, and 51-53 have been considered but are moot in view of the new ground(s) of rejection.

4. Applicant argues that Boreczky does not teach that the confidence level recited in claim 1 is associated with the certainty of the user.

In response the Examiner respectfully disagrees. Boreczky teaches the user can adjust the confidence level as desired (col. 5, lines 56-58). Therefore, Boreczky does disclose that the confidence level recited in claim 1 is associated with the certainty of the user.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-5, 7, 8, 10, 11, 13, 14, 17-19, 21, 26, 29, 30, 35, 36, 45-49, and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwoh et al. (US Pub. No. 2002/0031331) in view of Boreczky et al. (US Pat. No. 6,366,296) in further view of Aotake (US Pat. No. 6,385,386).

8. Consider claim 1. Kwoh et al, as discussed in the last Final Office Action, discloses a recording unit (fig. 2) for recording an event, comprising: a data acquisition device (pg. 2, para. 0035; fig. 2) for obtaining recording data representing the content of the event; a data storage device, (pg.2, para. 0035; fig. 2) for storing data wherein the stored data includes the recording data;

Kwoh et al. does not specifically disclose a control interface device for enabling a user to control operation of the recording unit, the control interface device further comprising marking means for enabling the user to specify multiple types of non-contemporaneous marks; a system controller that causes, in response to the specification of a non-contemporaneous mark and a time value relative to the marking

time of the non-contemporaneous mark specified by the user, the data storage device to store marking data associating the non-contemporaneous mark with the recording data obtained at a marked time relative to the marking time by the specified time value; wherein the marking data defines a confidence level that represents the certainty of the user that the marked time associated with the marked recording data is a time associated with the recording data that the user desires to mark and the confidence level is associated with the specified time value relative to the marking time.

However, Boreczky et al. teaches a control interface device further comprising marking means for specifying multiple types of non-contemporaneous marks (col. 3, line 61 - col. 4, line 9; fig. 1); a system controller that causes, in response to the specification of a non-contemporaneous mark and a time value relative to the marking time of the non-contemporaneous mark, the data storage device to store marking data associating the non-contemporaneous mark with the recording data obtained at a marked time relative to the marking time by the specified time value (col. 4, line 61 – col. 5, line 55; col. 11, lines 35-51; figs. 1 and 13) wherein the marking data defines a confidence level that represents the certainty of the user that the marked time associated with the marked recording data is a time associated with the recording data that the user desires to mark and the confidence level is associated with the specified time value relative to the marking time (col. 5, lines 56-58; col. 6, lines 5-8, 35-54).

Neither Kwoh et al. nor Boreczky et al. teach the user specifying multiple types of non-contemporaneous marks.

However, Aotake discloses the user specifying multiple types of non-contemporaneous marks (col. 42, lines 9-16; fig. 21).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of use, to mark a feature, generate metadata based on the marked feature and define a confidence level associated with the marked feature, in order to allow a user to more easily review the recorded data.

9. Consider claim 2. Boreczky et al. discloses a recording unit wherein the marking means is adapted to enable specification of a retrospective mark that is associated with recording data obtained at a marked time prior to the marking time at which the retrospective mark was specified by the user (col. 5, lines 51-55).

10. Consider claim 3. Boreczky et al. discloses a recording unit wherein the marking means is adapted to enable specification of a predictive mark that is associated with recording data obtained at a marked time subsequent to the marking time at which the retrospective mark was specified by the user (col. 5, lines 51-55).

11. Consider claim 4. Boreczky et al. discloses a recording unit wherein the marking data defines the marking time and a duration of time, the marked time being the time different from the marking time by the amount of the duration of time (col. 6, lines 12-17; fig. 2).

12. Consider claim 5. Boreczky et al. discloses a recording unit wherein the marking data defines the marked time directly (col. 4, lines 42-46; fig. 1).

13. Consider claim 7. Boreczky et al. discloses a recording unit wherein the value of the confidence level defines a range of time relative to the marked time (col. 7, lines 35-54).

14. Consider claim 8. Boreczky et al. discloses a recording unit wherein the marking data further defines a range of time relative to the marked time (col. 4, lines 42-46).

15. Consider claim 10. Boreczky et al. discloses a recording unit wherein the marking means further comprises: means for indicating that a voice mark is to be imminently specified; and means for identifying a voice mark, the means for identifying operable in response to an indication that voice mark is be imminently specified (col. 9, lines 27-35).

16. Consider claim 11. Kwoh et al. discloses a recording unit wherein the recording unit is portable (pg. 2, para. 0034).

17. Consider claim 13. Kwoh et al. discloses a recording unit wherein the data acquisition device further comprises a visual data acquisition device (pg. 2, para. 0035; fig. 2).

18. Consider claim 14. Kwoh et al. discloses a recording unit wherein the data acquisition device further comprises an audio data acquisition device (pg. 2, para. 0035; fig. 2).

19. Consider claim 17. Boreczky et al. discloses a recording unit wherein the multiple types of marks include one or more marks indicating a level of importance or interest of the content which the marked recording data represents (col. 5, lines 56-58).

20. Consider claim 18. Boreczky et al. discloses a recording unit wherein the multiple types of marks include one or more marks indicating a characteristic of the content which the marked recording data represents (col. 3, line 61 – col. 4, line 9);

21. Consider claim 19. Boreczky et al. discloses a recording unit wherein the multiple types of marks include one or more marks indicating the beginning or end of activity of interest (col. 3, lines 45-60).

22. Consider claim 21. Boreczky et al. discloses a recording unit wherein the multiple types of marks include one or more marks indicating the user's state of mind (col. 5, lines 56-57).

23. Consider claim 26. Boreczky et al. discloses a recording unit wherein the multiple types of marks include one or more marks identifying a person appearing in the part of the recording represented by the recording data associated with the mark (col. 7, lines 48-62).

24. Consider claim 29. Boreczky et al. discloses a recording unit further comprising: means for analyzing the recording data; and means for changing the meaning of a mark based on the analysis of the recording data (col. 7, lines 48-62).

25. Consider claim 30. Boreczky et al. discloses a recording unit further comprising: means for obtaining data other than recording data; and means for changing the meaning o f one or more marks based on the data other than the recording data (col. 7, lines 56-62).

26. Consider claim 35. Kwoh et al. discloses a recording unit wherein the system controller causes, in response to the specification of a mark by the user, operation of

the recording unit in a predetermined manner in accordance with the type of the mark (pg. 2, paras. 0032 and 0035).

27. Consider claim 36. Boreczky et al. discloses a recording unit for recording an event wherein at least one mark indicates a level of importance or interest of the content which the marked recording data represents (col. 5, lines 56-58).

28. Method claims 45-49 and 51-53 are rejected for the same reasons as discussed in corresponding apparatus claims 1-5, 7, 8, and 10 above.

29. Claims 12 and 41-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwoh et al. (US Pub. No. 2002/0031331) in view of Boreczky et al. (US Pat. No. 6,366,296) in further view of Aotake (US Pat. No. 6,385,386) in further view of Purdy et al. (US Pat. No. 5,726,660).

30. Consider claim 12. Kwoh et al., Boreczky et al., and Aotake disclose limitations as stated above, except a recording unit further comprising means for mounting one or more components of the recording unit on the body or the user.

However, Purdy et al. teaches a recording unit further comprising means for mounting one or more components of the recording unit on the body or the user (col. 2, lines 57-59).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of use, to have the ability to mount the recording unit on the body of the user, so as to record with respect to the location of the recorder's body.

31. Consider claim 41. Kwoh et al., Boreczky et al., and Aotake disclose limitations as stated above, except a recording unit wherein a data acquisition device for obtaining recording data representing the content of the event; the means for producing a mark further comprises means for producing a mark and/or supplementing or modifying an existing mark based on the value of, or an analysis of, data acquired by the recording unit; and wherein the recording unit further comprises means for acquiring non-visual, human perceptible data other than recording data; and the means for producing a mark and/or supplementing or modifying an existing mark produces, supplements or modifies based on the value of, an analysis of, the non-visual, human perceptible data other than recording data.

However, Purdy et al. teaches a recording unit wherein a data acquisition device for obtaining recording data representing the content of the event; the means for producing a mark further comprises means for producing a mark and/or supplementing or modifying an existing mark based on the value of, or an analysis of, data acquired by the recording unit; and wherein the recording unit further comprises means for acquiring non-visual, human perceptible data other than recording data; and the means for producing a mark and/or supplementing or modifying an existing mark produces, supplements or modifies based on the value of, an analysis of, the non-visual, human perceptible data other than recording data (col. 3, lines 26-36; fig. 3).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of use, to provide a means the means for producing a mark and/or supplementing or modifying an existing mark produces, supplements or modifies based on the value of,

an analysis of, the non-visual, human perceptible data other than recording data, in order to retrieve data from a remote location and forward it to a central monitoring station.

32. Consider claim 42. Purdy et al. discloses a recording unit wherein the means for acquiring data other than recording data further comprises a physiological monitoring device; and the means for producing a mark and/or supplementing or modifying an existing mark produces, supplements or modifies based on the value of, an analysis of, physiological monitoring data (col. 3, lines 26-36; fig. 3).

33. Consider claim 43. Purdy et al. discloses a recording unit wherein the means for acquiring data other than recording data further comprises a position sensing device; and the means for producing a mark and/or supplementing or modifying an existing mark produces, supplements or modifies based on the value of, an analysis of, position data (col. 3, lines 26-36; fig. 3).

34. Consider claim 44. Boreczky et al. discloses a recording unit wherein the means for producing a mark and/or supplementing or modifying an existing mark produces, supplements or modifies based on the proximity of the marking time to the marked time (col. 7, lines 48-62).

35. Claims 20 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwoh et al. (US Pub. No. 2002/0031331) in view of Boreczky et al. (US Pat. No. 6,366,296) in further view of Aotake (US Pat. No. 6,385,386) in further view of Suzuki (US Pat. No. 5,870,143).

36. Consider claim 20. Kwoh et al., Boreczky et al., and Aotake disclose all the claimed limitations as stated above, except a recording unit wherein the multiple types of marks include one or more marks indicating the recording conditions.

However, Suzuki teaches a recording unit wherein the multiple types of marks include one or more marks indicating the recording conditions (col. 5, lines 35-48).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of use, to include one or more marks indicating the recording conditions, in order to provide the user with the respective functions of the recording unit they are using.

37. Consider claim 24. Kwoh et al., Boreczky et al., and Aotake disclose all the claimed limitations as stated above, except a recording unit wherein the multiple types of marks include one or more marks indicating the different recording units.

However, Suzuki teaches a recording unit wherein the multiple types of marks include one or more marks indicating the different recording units (col. 5, lines 35-48; col. 6, lines 38-65).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of use, to include one or more marks indicating the different recording units, in order to allow the user to know what data was recording by a certain recording unit.

38. Claims 22, 23, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwoh et al. (US Pub. No. 2002/0031331) in view of Boreczky et al. (US Pat. No. 6,366,296) in further view of Aotake (US Pat. No. 6,385,386) in further view of Chard (US Pat. No. 4,605,964).

39. Consider claim 22. Kwoh et al., Boreczky et al., and Aotake disclose all the claimed limitations as stated above, except a recording unit wherein the multiple types of marks include one or more privacy marks.

However, Chard teaches a recording unit wherein the multiple types of marks include one or more privacy marks (col. 5, lines28-32; col. 6, lines 54-62).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of use, to include one or more privacy marks, in order to prohibit access of the marks to underage viewers.

40. Consider claim 23. Chard discloses a recording unit wherein the one or more privacy marks includes a mark that indicates that the marked part of the recording is to be erased (col. 3, lines 54-60; col. 6, lines 54-62).

41. Consider claim 31. Kwoh et al., Boreczky et al., and Aotake disclose all the claimed limitations as stated above, except a recording unit further comprising one or more marking tokens for enabling a person to specify a corresponding type of mark, each marking token adapted to enable physical separation of the marking token from the control interface device.

However, Chard teaches a recording unit further comprising one or more marking tokens for enabling a person to specify a corresponding type of mark, each marking token adapted to enable physical separation of the marking token from the control interface device (col. 5, lines 54-65).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of use, to provide marking tokens for enabling a person to specify a corresponding type of mark, in order to indicate the presence of an objectionable event or sound.

42. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kwoh et al. (US Pub. No. 2002/0031331) in view of Boreczky et al. (US Pat. No. 6,366,296) in further view Aotake (US Pat. No. 6,385,386) in further view of Abecassis (US Pat. No. 5,717,814).

43. Consider claim 25. Kwoh et al., Boreczky et al., and Aotake disclose all the claimed limitations as stated above, except a recording unit wherein the multiple types of marks include one or more marks identifying the person making the mark.

However, Abecassis teaches a recording unit wherein the multiple types of marks include one or more marks identifying the person making the mark (col. 12, lines 12-22).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of use, to include one or more marks identifying the person making the mark, in order to provide user profiles.

44. Claims 37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kwoh et al. (US Pub. No. 2002/0031331) in view of Boreczky et al. (US Pat. No. 6,366,296) in further view of Cruz et al. (US Pat. No. 5,613,032).

45. Consider claim 37. Kwoh et al., Boreczky et al., and Aotake disclose all the claimed limitations as stated above, except a recording unit wherein at least one mark

indicated the level of importance or interest of the content which the marked recording data represents; and the system controller causes recording data corresponding to the at least one mark to be compressed in accordance with the level of importance or interest represented by the mark.

However, Cruz et al teaches a recording unit wherein at least one mark indicated the level of importance or interest of the content which the marked recording data represents; and the system controller causes recording data corresponding to the at least one mark to be compressed in accordance with the level of importance or interest represented by the mark (col. 6, line 34-col. 7, line 37).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of use, to incorporate the searching apparatus, in order to search the desired audio signal in multimedia data.

Consider claim 38. Cruz et al. discloses a recording unit wherein the system controller causes compression of recording data to be reduced after the predetermined amount of time (col. 6, lines 37-54).

Conclusion

46. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to it's whose telephone number is 571-272-7635. The examiner can normally be reached on Monday - Friday 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mishawn Dunn
April 3, 2006